

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF TENNESSEE**  
**AT KNOXVILLE**

UNITED STATES OF AMERICA )  
                                )  
                                )  
V.                            ) No. 3:20-CR-00021  
                            )  
ANMING HU                  ) Judges Varlan/Poplin  
                            )  
                            )

**DEFENDANT's MOTION IN LIMINE TO EXCLUDE STATEMENTS AND**  
**TESTIMONY OF WITNESSES THAT HAVE BEEN CORRUPTLY INFLUENCED BY**  
**THE GOVERNMENT**

Now comes Anming Hu, by and through counsel, and moves this Honorable Court to exclude statements and testimony from witnesses that have been corruptly influenced or illegally tampered with by the government.

In pertinent part, 18 U.S.C. § 1512 defines tampering with a witness as “[w]hoever knowingly uses intimidation, threatens, or *corruptly persuades* another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to *influence*, delay, or prevent the testimony of any person in an official proceeding . . .” Further there is no requirement that the tamperer’s actions have the intended obstructive effect. *See, e.g., United States v. Murray*, 751 F.2d 1528 (9th Cir.), *cert. denied*, 474 U.S. 979 (1985); *United States v. Wilson*, 796 F.2d 55 (4th Cir. 1986), *cert. denied*, 479 U.S. 1039 (1987). By the use of the words “any person,” it is clear that a witness is “one who knew or was expected to know material facts and was expected to testify to them before pending judicial proceedings.” *United States v. DiSalvo*, 631 F.Supp. 1398 (E.D. Pa. 1986), *aff’d*, 826 F.2d 1054 (3d Cir. 1987).

The Government, through the FBI and DOE, made numerous attempts to *corruptly persuade* potential witnesses in this trial. Prior to Defendant’s arrest, but after the initiation of the

investigation by multiple government agencies, the FBI and DOE presented PowerPoints on three separate occasions to University of Tennessee administration and other interested government agencies. These presentations occurred on July 18, 2019; August 30, 2019; and September 17, 2019. Each of these presentations contained numerous and excessive inaccuracies that were presented to the attending groups as fact. The FBI and DOE displayed slideshows that made allegations about Defendant that were suggested to be corroborated by unaccompanied exhibits. However, upon inspection following discovery, many of these allegations were unsupported by suggested correlating evidence and, in fact, a review of the referenced exhibits proved the statements made to the witnesses were false. Each of these fabrications shed an unfavorable light upon the defendant and could have no other purpose than to influence those in attendance and persuade them to align with the prosecution of Defendant. Relevant to the instant case and Government witness list, John Zomchick and Jean Mercer attended all three of the deceptive FBI and DOE joint presentations.

Defendant is prepared to support the allegations in this motion with specific documentation and asks that the court grant a pre-trial hearing on this important motion.

WHEREFORE, the Defendant requests this Honorable Court to omit any testimony, statements, or opinions from witnesses that were illegally persuaded, influenced, or tampered with as a result of these presentations.

Respectfully submitted this 21st day of May, 2021

s/A. Philip Lomonaco  
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**CERTIFICATE OF SERVICE**

I do hereby certify that a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by U. S. Mail. Parties may access this filing through the Court's electronic filing system.

s/A. Philip Lomonaco